

**C-4657-18-H**  
**NO. \_\_\_\_\_**

<b>MENTOR CANTU</b>	<b>§</b>	<b>IN THE DISTRICT COURT</b>
<b>Contestant,</b>	<b>§</b>	
	<b>§</b>	
<b>V.</b>	<b>§</b>	<b>_____ JUDICIAL DISTRICT</b>
	<b>§</b>	
<b>BENJAMIN “BEN” ARJONA</b>	<b>§</b>	
<b>Contestee.</b>	<b>§</b>	<b>OF HIDALGO COUNTY, TEXAS</b>

**CONTESTANT'S ORIGINAL PETITION**  
**WITH REQUEST FOR DISCLOSURE**

**TO THE HONORABLE JUDGE OF SAID COURT:**

**NOW COMES** MENTOR CANTU, hereinafter called Contestant, complaining of and about BENJAMIN “BEN” ARJONA, hereinafter called Contestee, and shows unto the Court the following:

**DISCOVERY CONTROL PLAN LEVEL**

1. Pursuant to Rule 190.1 of the Texas Rules of Civil Procedure, Contestant intends to conduct this case under Discovery Level 3.

**PARTIES AND SERVICE**

2. Contestant, MENTOR CANTU, is an Individual whose resides in the City of Hidalgo, Hidalgo County, Texas 78557.

3. The last three numbers of MENTOR CANTU's driver's license number are XXX.  
The last three numbers of MENTOR CANTU's social security number are XXX.

4. Contestee, BENJAMIN “BEN” ARJONA, an Individual who is a resident of

**C-4657-18-H**

Hidalgo County, Texas, may be served with process at his home at the following address: 7601 St. John Ct., Pharr, Texas or wherever he may be found. Service of said Contestee as described above can be effected by personal delivery.

**JURISDICTION AND VENUE**

5. Contestant brings this action pursuant to Title 14, Chapter 232, Texas Election Code, to contest the results of the Hidalgo Independent School District Election held November 6, 2018 to select the Board of Trustees, Place 5 of Hidalgo Independent School District, for which Contestant and Contestee were the only candidates. This election contest is timely filed because it is filed not later than 30<sup>th</sup> day after the date the official result of the contested election was determined. *Texas Election Code* §232.008

6. This court has exclusive jurisdiction of this contest pursuant to *Texas Election Code* §221.002

7. Venue in Hidalgo County is proper for this election contest pursuant to Texas Election Code §232.006(c).

**ELCTION CONTEST**

8. On November 6, 2018, a final and official canvas and certification of the general election results for Board of Trustees Place 5 was completed by the Hidalgo Independent School District, Board of Trustees. The certified vote allocation shows 1,007 votes for Contestee Benjamin “Ben” Arjona and 964 votes for Mentor Cantu. Contestee was declared the winner because he received 43 more votes than Contestant.

9. Contestant will show on the trial of this cause that this was not the true outcome of the election for the reasons set forth below.

**C-4657-18-H**

10. Contestant will show that Contestee, Benjamin “Ben” Arjona is not registered to vote in the territory the Hidalgo Independent School District and is therefore not eligible to be a candidate, to be elected, to the office of Board Trustees for Hidalgo Independent School District, Place 5.

11. Contestant will show that at least 43 votes were illegally cast by individuals who were not eligible to vote in Place 5 because they were not residents of the City of Hidalgo. Had these illegal votes not been counted a different and correct result would be obtained in the election. Moreover, most, if not all of these persons who voted illegally voted for Contestee and, therefore, the votes of said voters should be deducted from the total received by Contestee, thereby requiring this Court to declare Contestant the winner of the November 6, 2018, election for Place 5, Hidalgo Independent School District Board of Trustees.

12. Contestant will also show that numerous voters casting votes during early vote and on election day were assisted at the time that they voted even though the voters were not eligible for assistance in reading or completing the ballot, in violation of Sections 64.032, 64.0321 and 86.010(a) of the Texas Elections Code. Had these illegal votes not been counted a different and correct result would be obtained in the election. Moreover, most, if not all of these voters who were illegally assisted voted for Contestee and, therefore, the votes of said voters should be deducted from the total received by Contestee, thereby requiring this Court to declare Contestant the winner of the November 6, 2018, election for Place 5, Hidalgo Independent School District Board of Trustees.

13. Contestant will also show that numerous voters casting votes during early vote and on election day received assistance that was not limited to that authorized by the Texas

**C-4657-18-H**

Election Code at a polling place, *see id.* § 86.010(b). Said illegal assistance included encouraging the voter how to vote and/or even pressuring or coercing votes in violation of the Texas Elections Code. Had these illegal votes not been counted a different and correct result would be obtained in the election. Moreover, most, if not all of these voters who were illegally assisted voted for Contestee and, therefore, the votes of said voters should be deducted from the total received by Contestee, thereby requiring this Court to declare Contestant the winner of the November 6, 2018, election for Place 5, Hidalgo Independent School District Board of Trustees.

14. Contestant will also show that numerous mail-in ballots that were counted should not have been counted due to numerous violations of various requirements in the Texas Elections Code. The following provisions of the Texas Elections Code were violated at the time that these numerous mail-in ballots were cast:

- (1) the voter is not eligible to vote by mail;
- (2) the voter was assisted in completing or signing the mail-in ballot application by a person other than the early voting clerk or a deputy but the witness failed to provide the information required by Tex. Elec. Cod §84.003(a) or (b);
- (3) the voter is not eligible for assistance in reading or completing the ballot but was assisted in doing so, *see* Tex. Elec. Code §§64.031, 64.0321, 86.010(a);
- (4) the voter was assisted by a person not eligible to assist;
- (5) the assistant failed to sign the oath prescribed by Tex. Elec. Code §64.034, *see* Tex. Elec. Code §86.010(c);
- (6) the assistant failed to enter his per her “signature, printed name, and residence address on the official carrier envelope of the voter, “ Tex. Elec. Code §86.010(e);

**C-4657-18-H**

(7) the voter permitted another person to take possession of the voter's ballot and carrier envelope to deposit same in the mail or with a common or contract carrier for delivery to the elections office but such person failed to "provide the person's signature, printed name, and residence address on the reverse side of the envelope," Tex. Elec. Code §86.0051(b);

(8) the voter did not seal the carrier envelope containing his or her ballot before the ballot and envelope left the voter's hand;

(9) the voter received assistance that was not limited to the authorized by the election code at a polling place, *see id.* § 86.010(b), including encouraging the voter how to vote or even pressuring or coercing votes; and/or

(10) the person providing assistance prepared the voter's ballot "without direction from the voter." *See id.* § 64.036(a)(2).

15. Under the Texas Elections Code, the mail-in ballots that were cast in violation of the Texas Elections Code as alleged in paragraph 13 above cannot be counted. Had these mail in ballots not been counted a different and correct result would be obtained in the election. Moreover, most, if not all of these mail-in ballots were cast for Contestee and, therefore, the votes of said voters should be deducted from the total received by Contestee, thereby requiring this Court to declare Contestant the winner of the November 6, 2018, election for Place 5, Hidalgo Independent School District Board of Trustees.

**NOTICE OF DISQUALIFICATION**

16. Pursuant to Texas Election Code §231.004, notice is hereby given that this matter involves territory covered by the Hidalgo County District Court. As such, the District Judge of

**C-4657-18-H**

this Court is statutorily disqualified. Contestant requests that the District Clerk promptly notify the Judge of this filing so that a special judge may be assigned to hear this matter. *Texas Election Code* §231.004

**REQUEST FOR DISCLOSURE**

17. Under Texas Rules of Civil Procedure 194, Contestant requests Contestee disclose, within 50 days of the service of this request, the information and materials, described in Rule 194.2.

**PRAYER**

**WHEREFORE, PREMISES CONSIDERED,** Contestant, MENTOR CANTU, respectfully prays:

- a. That this cause be set for trial and given precedence over other causes as provided by law;
- b. That notice of filing of the petition and of the hearing date be given to all parties;
- c. That if, after hearing the evidence the Court finds Contestee, Benjamin “Ben” Arjona is not registered to vote in the territory the Hidalgo Independent School District and is therefore not eligible to be a candidate, to be elected to the office of Board Trustees for Hidalgo Independent School District, Place 5, remove Contestee Benjamin “Ben” Arjona from the office of Board of Trustee for Hidalgo Independent School District, Place 5;
- d. That if, after hearing the evidence the true outcome of the election can be determined to show that Contestant is the winner, that Contestant be declared the winner of Place 5 of Hidalgo Independent School District Board of Trustees;

**C-4657-18-H**

e. In the alternative, that the election be declared void as it is impossible to ascertain the true results and an order issue for a new election for the contested office pursuant to §232.041, Texas Election Code; and

f. That Contestant be awarded costs of this action, including attorney fees, and such other and further relief to which Contestant may be entitled at law or in equity.

Respectfully submitted,

GILBERTO HINOJOSA & ASSOCIATES, PC

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